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HEWLETT-PACKARD COMPANY Intellectual Property Administration P. O. Box 272400 Fort Collins, Colorado 80527-2400

Number of pages: 51

Typed Name: Leland Wiesner

PATENT APPLICATION

ATTORNEY DOCKET NO. 10017560-1

Attorney/Agent for Applicant(s)

39424

Date: 12/06/2005

Reg. No.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Confirmation No.: 3502 inventor(s): J. Barry Shackleford Application No.: 10/047,045 Examiner: Sims, Jason Filing Date: 1/14/2002 Group Art Unit: 1631 CIRCUIT AND METHOD FOR PIPELINED CODE SEQUENCE SEARCHING Title: **Mail Stop Petition Commissioner For Patents** PO Box 1450 Alexandria, VA 22313-1450 PETITION FOR WITHDRAWAL OF ABANDONMENT Sir: 1. Applicant petitions that the abandonment set forth in the notice mailed by the office on be withdrawn. 10/13/2005 2. Submitted herewith is: (X) A copy of the page of the response mailed on _____10/29/2004 _____ showing a Certificate of Mailing executed on ______10/29/2004 () A copy of the post card identifying the papers filed and showing the U.S. PTO receipt stamp (X) A copy of the complete response previously filed. () A copy of the attorney's Deposit Account Statement in which the item corresponding to the response referred to above is checked. (X) A statement as setforth in 37 CFR 1.8(b)(3). 3. Please proceed with further examination of this application on the basis of: () The original papers filed, which have now reached the appropriate area of the PTO, and/or (X) The attached copy of the papers originally filed. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed. A duplicate copy of this letter is enclosed. () I hereby certify that this correspondence is being Respectfully submitted, deposited with the United States Postal Service as J. Barry Shackleford first class mail in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450. Date of Deposit: OR (\boldsymbol{X}) I hereby certify that this paper is being transmitted Leland Wiesner to the Patent and Trademark Office facsimile number_ (571) 273-8300 on

Hand Menus Telephone No.: (650) 853-1113

RECEIVED CENTRAL FAX CENTER

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DEC 0 7 2005

Applicant(s): J. Barry Shackleford

Application No.: 10/047,045

Group Art Unit: 1631

Filed: 1/14/2002

Examiner: Sims, Jason

Title: CIRCUIT AND METHOD FOR PIPELINED

CODE SEQUENCE SEARCHING

Attorney Docket No.: 10017560-1

Assistant Commissioner for Patents

Washington, D.C. 20231

PETITION TO WITHDRAW ABANDONMENT UNDER 37 CFR 1.8(b)

Dear Commissioner:

Applicant is submitting this petition to withdraw abandonment per Notice of Abandonment mailed October 13, 2005 (Appendix A). As evidenced herein, Applicant responded in a timely manner to an Office Action mailed June 29, 2004 (Appendix B) on October 29, 2004 via FAX (Appendix C) to the Examiner Ardin H. Marschel. Applicant respectfully submits that the group receiving the FAX failed to provide a confirmation receipt and also apparently misplaced or misfiled this document thus precipitating the Examiner's Notice of Abandonment mailed Ocotober 13, 2005. By virtue of this petition, evidence supporting the filing and the signature below, Applicant's representative Leland Wiesner, Esq. attests to personal knowledge of this filing and offers to provide additional information as required to satisfy the Director of petitions or representatives thereof.

On October 29, 2004, Applicant submitted a response to the Office Action using a designated FAX for the USPTO. Unfortunately, the USPTO group failed to provide a confirmation FAX however Applicant received confirmation for transmitting the FAX so had no reason to believe it would not get delivered in due course to the specified Examiner.

In lieu of the FAX back confirmation from the USPTO, the Applicant obtained a FAX log from the FAX server used to send the response on October 29, 2004 confirming that the FAX was indeed actually received at the Patent and Trademark Office. Page 1 of the FAX report entitled Page 1 of 50

From: Leland Wiesner To: USPTO Date: 12/6/2005 Time: 11:37:22 PM Page 3 of 51

"WinFAX PRO" (Appendix D) indicates that the FAX was transmitted on the same date therewith at approximately 11:27 PM taking 5 min 58 seconds and carrying 16 pages. In this FAX log, there is also a 13 page transmission to the USPTO for another matter at 5:47pm lasting 4 min 33 sec and a single page transmission made at 6:00 PM lasting 31 sec. All of these transmissions were successfully sent to the USPTO as no failed transmission information has been indicated.

Referring to page 8 of the FAX log entitled "Send Log" (Appendix E), the 10th entry from the top indicates that the status of the transmission was "Complete" and that the name of the party receiving the 16 page FAX was the "USPTO". The recipient/USPTO FAX number is preceded by an "18005972421" as this is a calling card number used to make long distance calls to the USPTO and the actual FAX number was truncated from this sheet. Applicant respectfully submit that the USPTO FAX number indicated on the cover sheet of page 2 of the Office Action response (Appendix C) combined with the details provided hereinabove are sufficient evidence that the FAX was actually sent and received at the USPTO on October 29, 2004.

Applicant respectfully submits that the evidence provided indicates that the USPTO actually received the timely reply on October 29, 2004. Further, while Applicant did not receive and therefore could not provide a separate certificate of transmission, the FAX logs and Office Action together clearly indicates it was transmitted on October 29, 2004 to the USPTO and is attested to by a person with personal knowledge of the FAX transmission per 37 CFR 1.8(a)(1)(ii) as evidenced by the signature below. In any event, Applicant should be accorded a date of October 29, 2004 as the reply was actually received by the USPTO on October 29, 2004 as well as constructively received on the same date under 37 CFR 1.8(a).

Regarding 37 CFR 1.8(b), Applicant first became aware that the USPTO had lost the response on or about October 11, 2005. In fact, Applicant received a phone call from an Examiner Ardin H. Marschel indicating that they did not have the response. Accordingly, Applicant has filed this petition to revive unintentional as it was beyond the Applicant's control and the fault of the USPTO rather than the Applicant.

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In summary, the Applicant respectfully requests the petition to withdraw abandonment be accepted and prosecution allowed to proceed on the merits without further fees, penalties or delay. Specifically, Applicant has complied with 37 CFR 1.8(a)(1) and thus should be granted a timely filing date of October 29, 2004.

Further, Applicant has also complied with 37 CFR 1.8(b) once it was apparent that the case had gone abandoned. Namely the response was (1) timely filed under 37 CFR 1.8(a) upon notification that the case was to be abandoned; (2) Applicant is herewith promptly informing the Office of the previous transmission on October 29, 2004 as it is now apparent that the Office has no evidence of receipt of the correspondence; (3) Applicant has supplied an additional copy of the previously transmitted correspondence and certificate; (4) Applicant attests to having a personal knowledge basis that the transmission was timely made and is willing to provide additional information to support this position to the satisfaction of the Director; (5) Due to the correspondence being sent by facsimile transmission, a copy of the sending unit's report confirming transmission has also be supplied to support this statement.

Consideration of this petition and withdrawal of abandonment is respectfully requested.

From: Leland Wiesner To: USPTO Date: 12/6/2005 Time: 11:37:22 PM Page 5 of 51

If there is further discussion or evidence required by the Director, it is respectfully requested that the Examiner telephone Leland Wiesner, Applicants' Attorney at (650) 853-1113 directly so that such issues may be resolved as expeditiously as possible.

Respectfully Submitted,

12/6/2005

Date

Leland Wiesner

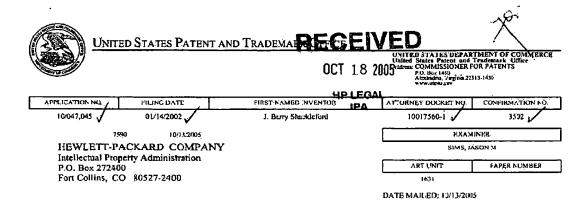
Leland Wiesner

Attorney/Agent for Applicant(s)

Reg. No. 39424

Leland Wiesner Attorney 366 Cambridge Avenue Palo Alto, California 94306 Tel. (650) 853-1113

APPENDIX A Notice of Abandonment



Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Mada a SAL and annous	10/047,045	SHACKLEFORD, J. BARRY
Notice of Abandonment	Examiner	Art Unit
	Jason M. Sims	1631
The MAILING DATE of this communication app		
This application is abandoned in view of:		
Applicant's failure to timely file a proper reply to the Offic (a) ☐ A reply was received on (with a Certificate of I period for reply (including a total extension of time of (b) ☐ A proposed reply was received on, but it does	Mailing or Transmission da month(s)) which.ex	red), which is after the expiration of the pired on
(A proper reply under 37 CFR 1.113 to a final rejection application in condition for allowance; (2) a timely file Continued Examination (RCE) in compliance with 37	n consists only of: (1) a tind d Notice of Appeal (with ap	ely filed amendment which places the
(c) ☐ A reply was received on, but it does not constited final rejection. See 37 CFR 1.85(a) and 1.111. (See		
(d) ⊠ No reply has been received.		
Applicant's failure to timely pay the required issue fee an from the mailing date of the Notice of Allowance (PTOL-E	d publication fee; if applica	ble, within the statutory period of three months
 (a)		
(b) The submitted fee of \$ is insufficient. A balanc	e of \$ is due.	
The issue fee required by 37 CFR 1.18 is \$	The publication fee, if requ	ired by 37 CFR 1.18(d), is \$
(c) The issue fee and publication fee, if applicable, has n	ot been received.	
Applicant's failure to timely file corrected drawings as req Allowability (PTO-37).	uired by, and within the thr	ee-month period set in, the Natice of
(a) Proposed corrected drawings were received on after the expiration of the period for reply.	_ (with a Certificate of Mail	ing or Transmission dated), which is
(b) No corrected drawings have been received.		
The letter of express abandonment which is signed by the the applicants.	e attorney or agent of reco	rd, the assignee of the entire interest, or all of
5: The letter of express abandonment which is signed by an 1.34(a)) upon the filing of a continuing application.	n attorney or agent (acting	in a representative capacity under 37 CFR
The decision by the Board of Patent Appeals and Interfer of the decision has expired and there are no allowed clair	rence rendered on a	and because the period for seeking court review
7. [] The reason(s) below:		
Attachment: Examiner-Initiated Interview Summary	•	
		ARDIN H. MARSCHEL SUPERVISORY PATENT EXAMINER
Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdominimize any negative effects on palent term.	aw the holding of abandonme	nt under 37 CFR 1.181, should be promptly filed to
U.S. Patent and Trademark Office PTOL-1432 (Rev. 04-01) Notice	of Abandonment	Part of Paper No. 20051011
		A -
		∫i t i

	Application No.	Applicant(s)
Examiner-Initiated Interview Summary	10/047,045	SHACKLEFORD, J. BARRY
Examiner made or many	Examiner	Art Unit
	Ardin Marschel	1631
All Participants:	Status of Application: ab	<u>n'ơ</u>
(1) <u>Ardin Marschel(SPE)</u> .	(3)	
(2) <u>Denise Saffold (Appl. Rep.)</u> .	(4)	
Date of Interview: <u>11 October 2005</u>	Time:	
	cant's representative)	
Exhibit Shown or Damonstrated: Yes No If Yes, provide a brief description:		
Part I.		
Rejection(s) discussed: N/A.		
Claims discussed: N/A		
Prior art documents discussed: N/A		
Part II.		
SUBSTANCE OF INTERVIEW DESCRIBING THE GENE See Continuation Sheet	ERAL NATURE OF WHAT WA	S DISCUSSED:
Part til.		
 It is not necessary for applicant to provide a separate directly resulted in the allowance of the application. The of the interview in the Notice of Allowability. It is not necessary for applicant to provide a separate did not result in resolution of all issues. A brief summa 	ne examiner will provide a writt record of the substance of the	ten summary of the substance interview, since the interview
SUPERVISORY PATENT EXAMINER 19/1/05		
(Examiner/SPE Signature) (Applican	nt/Applicant's Representative S	ignature - if appropriate)
U.S. Patent and Tradema's Office		
PTOL-4138 (04-03) Examiner initiated in	nterview Summary	Paper No. 101105

Date: 12/6/2005 Time: 11:37:22 PM Page 10 of 51

Continuation Sheet (PTQL-413B)

From: Leland Wiesner To: USPTO

Application No. 10/047,045

Continuation of Substance of Interview including description of the general nature of what was discussed: Ms. Saffold indicated that a response was filed to the office action, mailed 6/29/04, and that a FAX log of FAXes sent to the PTO could be provided. Ms. Saffold, however, was informed, via voicemail today, that such a log may document submission of said response, but that this is a Petitionable matter to be reviewed during Revival Petition consideration and that at present a Notice of Abandonment will be sent.

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ering opposite the second

From: Leland Wiesner To: USPTO

Date: 12/6/2005 Time: 11:37:22 PM

APPENDIX B Office Action 6/29/2004



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERC United States Patent and Trademark Office Address COMMISSIONER FOR PATENTS P.O. Bos. 1450 Abraudia, Vignas 22313-1450

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,045	01/14/2002	J. Barry Shackleford	10017566-1	3502
	7590 06/29/2004		EXAM	INER
	PACKARD COMPAN	* RECEIVED	MARSCHEL	, ARDIN H
P.O. Box 2724	operty Administration	• •	ART UNIT	PAPER NUMBER
	CO 80527-2400	JUL 02 2004	1631	

HP LEGAL

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

US ACTIO	N
DUE DATE	
Paper Dat	ed
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	ISS.38 ====
Other	

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
	10/047,045	SHACKLEFORD, J. BARRY
Office Action Summary	Examiner	Art Unit
	Ardin Marschel	1631
- The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address -
A SHORTENED STATUTORY PERIOD FOR REPLY THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailting date of this communication. If the period for reply specified above, it has the maximum statutory period we failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	38(a). In no event, however, may a reply be fin within the statutory minimum of thirty (30) day 4(II apply and will expire SDX (6) MONTH-IS from cause the supplication to become ABANDONE	nely filed s will be considered timety. the mailing date of this communication. D 265 U.S.C. 6. 333.
Status	•	
1) Responsive to communication(s) filed on <u>09 Ag</u>	oril 2004.	
	action is non-final.	
 Since this application is in condition for alloward 	ice except for formal matters, pro	secution as to the merits is
closed in accordance with the practice under E	x parte Quayle, 1935 C.D. 11, 45	53 O.G. 213.
Disposition of Claims		
4) Claim(s) 1-23 is/are pending in the application.		
4a) Of the above claim(s) 12-23 is/are withdraw	n from consideration.	
5) Claim(s) is/are allowed.		
6)⊠ Claim(s) <u>1-11</u> is/arc rejected.		
7) Claim(s) is/are objected to.		
8) Claim(s) 1-23 are subject to restriction and/or e	election requirement.	
Application Papers		
9) The specification is objected to by the Examiner	r.	
10) The drawing(s) filed on is/are: a) acce		Examiner.
Applicant may not request that any objection to the o		
Replacement drawing sheet(s) including the correcti	on is required if the drawing(s) is obj	ected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Ex	aminer. Note the attached Office	Action or form PTO-152.
Priority under 35 U.S.C. § 119		
12) Acknowledgment is made of a claim for foreign a) All b) Some col None of:	priority under 35 U.S.C. § 119(a)	-(d) or (f).
 Certified copies of the priority documents 	have been received.	
Certified copies of the priority documents		
3. Copies of the certified copies of the priori		d in this National Stage
application from the International Bureau		
* See the attached detailed Office action for a list of	n ure cermied copies not receiver	0 .
Attachment(s)		
1) Notice of References Cited (PTO-892)	4) Interview Summary (
Notice of Draftsperson's Patent Drawing Review (PTO-948) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	Paper No(s)/Mail Dail 5) Notice of Informal Pa	
Paper No(s)/Mail Date,	6) Othor:	•
S. Patem and Trademark Office TOL-326 (Rev. 1-04) Office Act	ion Summary	Part of Paper No./Mall Date 62504

From: Leland Wiesner To: USPTO

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Date: 12/6/2005 Time: 11:37:22 PM

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Application/Control Number: 10/047,045

Art Unit: 1631

Page 2

DETAILED ACTION

Applicant's election of Group I (claims 1-11) in the reply, filed on 4/9/04, is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

VAGUENESS AND INDEFINITENESS

Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for falling to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 1-2, the claimed circuit arrangement is directed to "searching a parent code sequence for a target code sequence". Consideration of the claimed content of the circuit in lines 3-13 of claim 1 has failed to reveal any limitation which corresponds to such a specific search for a larget code sequence. It is acknowledged that a shift register stores and shifts parent code, a matching circuit provides a binary value for matching, and an adder sums the binary values. Nowhere is there a component which determines the target code sequence. The binary value that is summed in the adder may be indicative of finding a target code sequence if there is a binary value determination which corresponds to finding such a target code sequence. No such value is set forth, or even any indication of looking for such a value. Thus, are the metes and bounds of claim 1 defined by the preamble in lines 1-2 or are they defined by a non-target determination search without a clear goal in lines 3-13 of claim 1? Clarification via clearer claim wording is requested. Claims which depend directly or Application/Control Number: 10/047,045

Page 3

Art Unit: 1631

indirectly from claim 1 also contain this unclarity due to their dependence and a lack of clarifying this issue.

PRIOR ART

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United

Claims 1-11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lipman et al. [Science 227:1435 (1985)].

Lipman et al. is directed to searching databases (containing parent sequences) for a newly determined sequence (target sequence) via microcomputers programmed with an algorithm for such searching as summarized in the abstract. It is noted that the instant claims are directed to a circuit arrangement which is reasonably deemed to be inclusive of microcomputer hardware with its associated software program components. Lipman et al. discloses an original algorithm as one type of sequence searching algorithm on page 1435, third column, third full paragraph, through page 1436, second column, line 8, which performs a sequence search algorithm as a computer program. In this computerized algorithm the sequences to be compared for target searching are cited as sequences 1(target) and 2 (parent) sequences and stored (n contiguous codes as in instant claim 10) with character codes (instant claims 2 and 3) for the sequence of amino acids in each as required in instant claim 1, lines 3-6. These sequences are compared in said algorithm by shifting from amino acid pair to amino acid pair as also

From: Leland Wiesner To: USPTO Date: 12/6/2005 Time: 11:37:22 PM Page 16 of 51

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Application/Control Number: 10/047,045

Art Unit: 1631

instantly required. A lookup table (instant claim 11 utilized a plurality of times for the sequence comparison; it is noted that claim 11 lacks any limitation as to whether the lookup tables are the same or different) is utilized to look up each amino acid pair and an offset value is determined for each amino acid in order through the two sequences being compared as also instantly claimed in the matching circuit in instant claim 1, lines 7-10. This value is then scored in a pipeline fashion [moving sum (or recent and next) (or prior, intervening, and first codes) as in instant claims 7, 8, or 9] along the sequences wherein the score is increased for an identity match and decreased for each mismatch as described on page 1436, bridging paragraph between the first and second columns. Thus identities vs. mismatch values are summed as required to produce values as in instant claim 1, lines 11-13. This therefore discloses a pipelined added arrangement is disclosed as instantly claimed in lines 11-13 of instant claim 1. The sequence comparisons are also organized in a dot-matrix homology plot as stated on page 1436, first column, lines 11-13, which is reasonably also a pipelined adder tree (or binary vectors as in instant claim 6) for the many diagonals therein represented which are separately determined and scored as instant claim 4. The summed score values are binary values due to being calculated within a microcomputer system programmed as set forth above. It is well known that the actual numerical values that are calculated in such a microcomputer/software arrangement are binary values due to this being the computation values utilized therein. Anderson et al. (P/N 3,969,724) is cited herein only to provide evidence of such binary value computational practice in microcomputers for now many years. Anderson et al. describes binary bit processing in columns 4-22 with

Application/Control Number: 10/047,045

Page 5

Inden I Marshel 425/04

Art Unit: 1631

binary machine code for control also described. In column 19, line 54, through column 20, line 25, registers are operated via bits arranged in Op codes. Bit manipulation is specifically cited in column 17, lines 20-24, as being performed during a variety of software program instructions including adding involving carry and propagate addition as required for addition operations as in instant claim 5. Thus, the above listed instant clams are anticipated by Lipman et al.

No claim is allowed.

Papers related to this application may be submitted to Technical Center 1600 by facsimile transmission. Papers should be faxed to Technical Center 1600 via the Central PTO Fax Center. The faxing of such papers must conform with the notices published in the Official Gazette, 1096 OG 30 (November 15, 1988), 1156 OG 61 (November 16, 1993), and 1157 OG 94 (December 28, 1993)(See 37 CFR § 1.6(d)). The Central PTO Fax Center number is (703) 872-9306.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ardin Marschel, Ph.D., whose telephone number is (571) 272-0718. The examiner can normally be reached on Monday-Friday from 8 A.M. to 4 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, Ph.D., can be reached on (571) 272-0722.

Any inquiry of a general nature or relating to the status of this application should be directed to Legal Instrument Examiner, Tina Plunkett, whose telephone number is (571) 272-0549.

June 25, 2004

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		Notice of Reference	a Citad		10/047,045	Solido No.	Reexamination	
1		Notice of Reference	is ched		Examiner		Art Unit	Dono 4 of 4
					Ardin Marso	thel	1631	Page 1 of 1
				U.S. PA	ATENT DOCUM	ENT8		
*		Document Number Country Code-Number-Kind Code	Date NM-YYYY			Name		Classification
	Α	US-3,969,724	07-1976	Anders	on et al.			712/245
	В	us-						
	С	US-						
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*A cor	y of thi	Is reference is not being furnished with the	nis Office action. (See MPEP	§ 707.05(a).)			
U.S. Pa	Fent enc	-YYYY format are publication dates. Clas d Tredemark Office Rev. 01-2001)			ign. References Ci	ted	Part of Paper No	o. 62504

From: Leland Wiesner To: USPTO Date: 12/6/2005 Time: 11:37:22 PM Page 19 of 51

APPENDIX C Office Action Response 10/29/2004

[X]Other_Ext. of time; retition 2 pg_____Hewlett-Jackard Company Palo Alto___

RECEIVED CENTRAL FAX CENTER Page 21 of 51

DEC 0 7 2005

HEWLETT-PACKARD COMPANY Intellectual Property Administration P. O. Boy 272400 For Colline, Coloraco 80627-2400 Inventor(s): J. Barry Shackleford Application No.: 10/047,045 Filing Date: 1/14/2002

PATENT APPLICATION

ATTORNEY DOCKET NO. 10017560-1

IN THE

UNITED STATES PATENT AND TRADEMARK OFFICE

Confirmation No.: 3502

Examiner: Marschel, Ardin Hi

Group Art Unit: 1631

Title:

CIRCUIT AND METHOD FOR PIPELINED CODE SEQUENCE SEARCHING

Mail Stop Amendment Commissioner For Patents PO Box 1450

Alexa	andria, VA 22313-1450		
	TRANSMITTAL LETTER F	OR RESPONSE/AM	IENDMENT
Sjr.		<u>-</u>	
Tran	smitted herewith is/are the following in the	above-identified a	oplication:
(X)	Response-Amendment	(X).	Petition to extend time to respons
(X)	New fee as calculated below	()	Supplemental Declaration
()	No additional fee		
()	Other:	====	(fee \$
E	CLAIM 3 A3 AMENDED		

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Charge S 110 to Deposit Account 502217 At any time during the pendency of this application, please energe any fees required or credit any overpayment to Deposit Account 502217 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 502217 under 37 GFR 1.16; 1.17, 1.19; 1.20 and 1.21. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

(X) I hereby certify that this paper is being transmitted to the Patent and Trademark Office facsimile.

number (703) 872-9306 on 10/25/2004 Number of pages 16

J. Barry Shackleford

Leland Wiesner

Attorney/Agent for Applicant(s)

Rég. No. 39424

Date: 10/29/2004

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Telephono No.: (669) 853-1113

- Attach as First Page to Transmitted Papers

Page 22 of 51

DEC 0 7 2005

HEWLETT-PACKARD COMPANY Intellectual Property Administration P. C. Box 272400 Fort Collins, Colorado 80527-2400
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PATENT APPLICATION

IN THE ED STATES PATENT AND TRADEMARK OFFICE

J. Barry Shackleford

Confirmation No.: 3502

Application No.: 10/047,045

Examiner: Marschel, Ardin Hi

Filing Date:

inventor(s):

1/14/2002

Group Art Unit: 1631

Title:

CIRCUIT AND METHOD FOR PIPELINED CODE SEQUENCE SEARCHING

Mail Stop Amendment **Commissioner For Patents** PQ Box 1450 Alexandria, VA 22313-1450

TRANSMITTAL LETTER FOR RESPONSE/AMENDMENT

Transmitted herewith is/are the following in the above-identified application:

Response/Amendment

(X) Petition to extend time to respond

New fee as calculated below (Xi No additional fee

() Supplemental Declaration

Other:

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Charge \$ 110 to Deposit Account 502217 At any time during the pendency of this application, please charge any fees required or credit any overpayment to Deposit Account 502217 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 502217 under 37 GFR 1.16, 1.17, 1.19, 1.20 and 1.21. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

(X) Thereby certify that this paper is being transmitted to the Patent and Trademark Office racsimile.

number (703) 672-9308 on 10/20/2004 Number of pages 16

J. Barry Shackleford

Leland Wiesner

Attorney/Agent for Applicant(s)

Rég. No. 39424

Date: 10/29/2004

Rev 10/04 TnAmdTaxii

Telephone No.: (659) 853-1113

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DEC 0 7 2005

Attorney's Docket No.: 10017560-1 Alt. Ref.: 00111-006300000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE.

Applicant: Shackleford

Art Unit : 1631 App No. : 10017560-1

Examiner: Marschel, Ph.D., Ardin II. Issue Date: n/a Conf. No .: 3502

Serial No.: 10/047/045 : 1/14/2002 Filed

Title : Circuit and Method for Pipelined Code Sequence Searching

Commissioner.for Patents

PO Box 1450

Alexandria, VA 22313-1450

RESPONSE

Dear Examiner:

In response to the Office Action of June 29, 2004, please consider the following remarks:

Applicant : Shackleford

Parent No. r/a Issued n/a

Serial No. : 10/047,045 Filed : 1/1.4/2002

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REMARKS

Attorney's Docket No.: 10017560-1

Examiner rejected claims 1-11 under 35 USC 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which application regards as the invention. In particular, the Examiner indicated that the preamble of claim 1 was directed towards "searching a parent code sequence for a target code sequence" yet the Applicant did not specify anywhere in lines 3-13 of claim 1 a component to determine the target code sequence. Applicant respectfully submits that the matching circuit complet to the shirt register arrangement recited in claim 1 as filed clarifies the determination of the target code sequence component. Specifically, claim 1 recites in lines 7-10 "a matching circuit coupled to the shift register arrangement, the matching circuit adapted to ascertain code position matches between the subset of codes in the stages of the shift register arrangement and codes in corresponding code positions of the target code sequence, and provide a programmed binary value for each code position match? (emphasis added). This clearly indicates that the target code component is associated with the matching circuit as recited in claim 1. Accordingly, Applicant would request the Examiner withdraw this rejection of claim 1 and, by virtue of their dependence on claim 1, the corresponding rejection of claims 2-11.

In addition, the Examiner also rejected claim 1 under 35 USC 102b in view of Lipman et al. [Science 227:1425 (1985)]. To make a proper rejection under 35 USC 102b, Lipman must have every element of the claims with the same specificity as that claims. See Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 U.S.P.Q.2D (BNA) 1913, 1920 (Fed. Cir.), cert. denied, 493 U.S. 853, 107 L. Ed. 2d 112, 110 S. Ct. 154 (1989) (explaining that an invention is anticipated if every element of the claimed invention, including all claim limitations, is shown in

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a single prior art reference) and see Jamesbury Corp. v. Litton Industrial Products, Inc., 756 F.2d 1556, 1560, 225 USPQ 253, 256 (Fed. Cir. 1985) (explaining that the identical invention must be shown in as complete detail as is contained in the patent claim).

Applicant respectfully submits that Lipman does not include any of the elements provided claim 1. Lipman does not provide "A circuit arrangement for searching a parent code sequence for a target code sequence" from the preamble of claim 1 but instead provides a general purpose microcomputer hardware with software program components. Claim 1 is clearly directed to a particular circuit and Lipman does not teach or even suggest implementing anything using custom circuits or hardware. With respect to hardware, Lipman merely compares performance of the Lipman algorithm on Personal Computers (i.e., the IBM PC- probably a 12 mHz 80286) and contrasts this performance with the higher performance Mini Computers (i.e., VAX 11/759) of the cra (Abstract from Lipman).

Further, Lipman does not provide "a shift register arrangement having a plurality of stages, wherein each stage stores a code of a subset of codes of the parent code sequence, and the shift register arrangement is adapted to periodically shift the subset of codes to form a new subset of codes with another code from the parent code sequence in a leading stage" as recited in claim 1. Even if the general purpose microcomputer might contain one or more shift registers, Lipman does not specify using such shift registers in the manner described and provided for in claim 1. It is also not clear how, if at all, such registers would be harnessed from the teaching of Lipman.

In addition, Lipman does not provide "a matching circuit coupled to the shift register arrangement, the matching circuit adapted to ascertain code position matches between the subset of codes in the stages of the shift register arrangement and codes in corresponding code positions

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of the target code sequence, and provide a programmed binary value for each code position match" as recited in claim 1. Instead, Lipman provides an amino acid replacement matrix using software (Abstract and pg. 1436, Col. 3, lines 21-24 of Lipman) to improve performance. Not only is Lipman not using a matching circuit but if Lipman were to have taught a circuit implementation it would result in a matrix and not a shift register arrangement.

Finally, Lipman does not provide "a pipelined adder arrangement coupled to the matching circuit, the adder arrangement adapted to sum the binary values for code position matches for each respective subset of codes" as recited in claim 1. Contrary to the Examiner's assertion, Lipman does not mention a pipeline operation hence would not be possible for Lipman to even work in a "pipeline fashion".

Clearly, Lipman cannot anticipate claim 1 or any other claim similar to claim 1 as more than one element is absent from the claim. See Kloster Speedsteel AB v. Crucible, Inc., 793 F.2d. 1565, 1571, 230 U.S.P.Q. (BNA) 81, 84 (Fed. Cir. 1986) ("Absence from the reference of any claimed element negates anticipation.") Consequently, Lipman does not anticipate claim 1 as filed in the instant application. Although claims 2-11 are independently patentable over Lipman, they are also patentable for at least the same reasons as claim 1 due to their dependence on claim 1.

With respect to independent method claim 12. Lipman does not teach "shifting the parent code sequence through a shift register arrangement having a plurality of stages, wherein the shift register arrangement stores a subset of codes of the parent code sequence and each stage stores a code of the subset of codes, and each shift of the subset of codes forms a new subset of codes with another code from the parent code sequence in a leading stage" as recited in claim 12. Instead, Lipman locates and compares the beginning and end positions in sequences being

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analyzed (pg. 1436, Col. 2, lines 13-17 of Lipman) rather than shifting a parent code sequence as recited in claim 12.

Further, Lipman does not teach "determining in parallel whether the codes in the stages of the shift register arrangement are equal to codes of the target code sequence in corresponding code positions, and generating in parallel signals of a programmed binary value for each equality of a subset code and a target code," also recited in claim 12. Lipman does not make mention of the word parallel or parallel processing throughout the article hence it would not be possible for Lipman to teach generating parallel signals as recited in claim 12.

In addition, Lipman does not teach "summing the signals of the programmed binary value in a pipelined adder that generates a sum corresponding to each shift of the shift register arrangement" as recited in claim 12. As previously mentioned, Lipman does not use pipelining or a shift register hence it would not be possible for Lipman to teach pipelined adding or operating a shift register. In fact, Lipman teaches selecting the beginning and end positions in the sequences (pg. 1436, Col. 2, lines 13-17 of Lipman) thus not operating on a sequence by shifting values but by selecting values from only the ends of any given sequence.

Because Lipman does not teach each element, it is also not possible for Lipman to anticipate claim 12 under 35 USC 102b. In addition to being independently patentable, dependent claims 13-22 include at least the same limitations as claim 12 and therefore also cannot be anticipated by claim 12.

Lipman also does not anticipate claim 23 under 35 USC 102b as it does not teach each and every element of this claim either. For example, Lipman does not teach "means for determining in parallel whether each code at a subset-code position in a subset of codes is equal to a code of the target code sequence in a corresponding target-code position, and generating in

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parallel signals of a selected binary value for each equality of a subset code and the target code" as recited in claim 23. As previously mentioned, Lipman does not mention the word parallel or parallel processing in general hence it would not be possible to anticipate claim 23. For at least this reason alone, claim 23 is not anticipated and should be allowed in the instant application.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version with markings to show changes made".

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Leland Wiesner, Applicants' Attorney at (650) 853-1113 so that such issues may be resolved as expeditiously as possible.

For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is carnestly solicited.

Oct. 29, 2004

Date

Respectfully Submitted,

Atterney/Agent for Applicant(s)
Reg. No. 39424

Leland Wiesner Attorney 366 Cambridge Avenue Palo Alto, California 94306 Tel. (650) 853-1113 From: Leland Wiesner To: USPTO Date: 12/6/2005 Time: 11:37:22 PM Page 31 of 51

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Version with markings to show changes made

What is claimed is:

1. (Original) A circuit arrangement for searching a parent code sequence for a target code sequence, comprising:

a shift register arrangement having a plurality of stages, wherein each stage stores a code of a subset of codes of the parent code sequence, and the shift register arrangement is adapted to periodically shift the subset of codes to form a new subset of codes with another code from the parent code sequence in a leading stage;

a matching circuit coupled to the shift register arrangement, the matching circuit adapted to ascertain code position matches between the subset of codes in the stages of the shift register arrangement and codes in corresponding code positions of the target code sequence, and provide a programmed binary value for each code position match; and a pipelined adder arrangement coupled to the matching circuit, the adder arrangement adapted to sum the binary values for code position matches for each respective subset of codes.

- 2. (Original)The circuit arrangement of claim 1, wherein each stage of the shift register arrangement is adapted for storage of a code of character data.
- 3. (Original)The circuit arrangement of claim 1, wherein each stage of the shift register arrangement is adapted for storage of a code of a plurality of character data.

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4. (Original) The circuit arrangement of claim 1, wherein the pipelined adder arrangement is a pipelined adder tree:

- 5. (Original) The circuit arrangement of claim 1, wherein the pipelined adder arrangement includes at least one stage of pipelined carry-save adders coupled to at least one stage of pipelined carry-propagate adders.
- 6. (Original)The circuit arrangement of claim 5, wherein the at least one stage of pipelined carry-save adders are adapted to provide a plurality of binary vectors responsive to the quantity of code position matches, and the at least one stage of pipelined carry-propagate adders are adapted to add the plurality of binary vectors.
- 7. (Original)The circuit arrangement of claim 1, further comprising a pipelined summing circuit coupled to the pipelined adder arrangement and adapted to determine a moving sum of code position matches for a plurality of subsets of codes.
- 8. (Original)The circuit arrangement of claim 7, wherein the plurality of subsets of codes includes at least a most recent subset of codes and a next most recent subset of codes.
- 9. (Original) The circuit arrangement of claim?, wherein the plurality of subsets of codes includes a first subset of codes and a prior subset of codes, wherein an intervening subset of codes is processed between the first subset of codes and the prior subset of codes.

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10. (Original)The circuit arrangement of claim 1, wherein each subset of codes includes a contiguous codes from the parent code sequence.

- 11. (Original) The circuit arrangement of claim 1, wherein the matching circuit includes a plurality of programmable lookup tables, each lookup table having an input terminal coupled to an output terminal of a corresponding stage of the shift register arrangement and configured to provide a programmed value responsive to an input code value.
- 12. (Original) A method for searching a parent code sequence for a target code sequence, comprising:

shifting the parent code sequence through a shift register arrangement having a plurality of stages, wherein the shift register arrangement stores a subset of codes of the parent code sequence and each stage stores a code of the subset of codes, and each shift of the subset of codes forms a new subset of codes with another code from the parent code sequence in a leading stage;

determining in parallel whether the codes in the stages of the shift register arrangement are equal to codes of the target code sequence in corresponding code positions, and generating in parallel signals of a programmed binary value for each equality of a subset code and a target code; and summing the signals of the programmed binary value in a pipelined adder that generates a sum corresponding to each shift of the shift register arrangement.

13. (Original) The method of claim 12, further comprising:

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determining, for each respective subset of codes, a probability of being the target code sequence as the sum of the binary values for code position matches for the respective subset of codes divided a total quantity of code positions in the target code sequence; and associating the probability for each respective subset of codes with a unique identifier representative of a location within the parent gode sequence at which the respective subset of codes exists.

- 14. (Original) The method of claim 12, wherein the parent code sequence represents a genome.
- 15. (Original)The method of claim 14, wherein each code of the parent code sequence is representative of a nucleotide type.
- 16. (Original)The method of claim 15, wherein the nucleotide type is selected from the group consisting of: adenine, thymine, guanine, and cytosine.
- 17. (Original) The method of claim 14, wherein the genome is a human genome.
- 18. (Original) The method of claim 12, further comprising: configuring a plurality of lookup tables to generate respective signals of the programmed binary value when addressed by codes equal to codes of the target code sequence; and addressing the lookup tables with the codes of the subset of codes.
- 19. (Original) The method of claim 12, further comprising generating a moving sum; for n subsets of codes, of sums of the signals of the selected binary value.

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20. (Original) The method of claim 19, wherein the n subsets of codes includes at least a most recent subset of codes and a next-most recent subset of codes.

- 21. (Original) The method of claim 19, wherein the n subsets of codes includes a first subset of codes and a prior subset of codes, wherein an intervening subset of codes is processed between the first subset of codes and the prior subset of codes.
- 22. (Original)The method of claim 12, wherein each subset of codes includes in contiguous codes from the parent code sequence.
- 23. (Original) An apparatus for searching a parent code sequence for a target code sequence, each code in the parent code sequence having a parent-relative position, comprising: means for periodically selecting subsets of codes of the parent code sequence, each code in the subset having a relative subset-code position defined by the parent-relative position, and each subset of codes differing from other subsets by parent-relative positions of the codes in the subset;

means for determining in parallel whether each code at a subset-code position in a subset of codes is equal to a code of the target code sequence in a corresponding target-code position, and generating in parallel signals of a selected binary value for each equality of a subset code and the target code; and

means for summing the signals of the selected binary value.

APPENDIX D

FAX Report Indicating Complete/Successful Transmission of Response to Office Action

WinFax PRO Outgoing Calls Report

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APPENDIX E
FAX Log Indicating Complete/Successful
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Coml Fax 5	problem solver	Fri 7/8/2005 12:02 PM	(w)	problem:solver	Revised order for 368. Cambridge Ave 180059724211. ****	3005972421,,,1,***
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Comp Fax C USPTO	: USPTO	Wed 7/6/2005 6:08 PM			10	18005972421,,,,1,,***.
Coml Fax 5	Fax & jispto	Wed 7/6/2005 6:33 PM	Ξ.		18	18005972421,,,,1,,,,,,
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Com Fax 5	Fax & USPTO Trademark	Tue 8/24/2004 4:22 PM	63		Petition to review mark 78257886	18005972421,1,
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